

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JAMES R. COYE, JR.

§
§
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§
§

VS.

**Case No. 4:09cv149
(Judge Schneider/Judge Mazzant)**

THE CITY OF FRISCO, TEXAS, ET AL. §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case has been pending on the Court's docket since January 29, 2009. No substantive activity has been reported in this case since July 7, 2009. On September 4, 2009, the Court set this case for a telephonic status conference for September 11, 2009; the conference call did not occur.

A district court may dismiss an action for failure to prosecute or to comply with an order of the court. *See generally McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988); *Magnuson v. Electronic Data Systems Corp.*, 252 F.3d 436, 2001 WL 360841 (5th Cir. 2001); *Beard v. Experian Information Solutions Inc.*, 214 F. App'x 459 (5th Cir. 2007); Fed. R. Civ. P. 41(b). Plaintiff failed to comply with an order of the Court and failed to prosecute this action.

RECOMMENDATION

It is therefore recommended that Plaintiff's case should be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest

injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 14th day of September, 2009.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE